

1 Scott E. Gizer, Nevada Bar No. 12216
2 *sgizer@earlysullivan.com*
3 Sophia S. Lau, Esq., Nevada Bar No. 13365
4 *slau@earlysullivan.com*
5 EARLY SULLIVAN WRIGHT
6 GIZER & McRAE LLP
7 8716 Spanish Ridge Avenue, Suite 105
8 Las Vegas, Nevada 89148
9 Telephone: (702) 331-7593
10 Facsimile: (702) 331-1652

11 Attorneys for Specially-Appearing Defendant OLD REPUBLIC
12 TITLE INSURANCE GROUP, INC. and Defendants
13 OLD REPUBLIC NATIONAL TITLE INSURANCE
14 COMPANY and OLD REPUBLIC TITLE COMPANY OF
15 NEVADA

16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 WELLS FARGO BANK, N.A., AS
19 TRUSTEE, ON BEHALF OF THE
20 HOLDERS OF THE HARBORVIEW
21 MORTGAGE LOAN TRUST MORTGAGE
22 LOAN PASS-THROUGH CERTIFICATES,
23 SERIES 2006-12,

24 Plaintiff,

25 vs.

26 OLD REPUBLIC TITLE INSURANCE
27 GROUP; et al.,

28 Defendants.

Case No.: 2:20-cv-01430-RFB-NJK

STIPULATION AND ORDER TO STAY



1 Plaintiff Wells Fargo Bank, N.A., as Trustee, on Behalf of the Holders of the Harborview
 2 Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-12 (“WFB”), and
 3 Defendants Old Republic National Title Insurance Company (“Old Republic”), Old Republic
 4 Title Insurance Group, Inc. (“ORTIG”) and Old Republic Title Company of Nevada
 5 (“ORTCNV”) (collectively, the “Parties”), by and through their counsel of record, hereby
 6 stipulate and agree as follows, subject to the approval of the District Court:

7 This is one of several title insurance coverage disputes pending in this district following an
 8 HOA foreclosure sale. The case was originally filed in Nevada state court. ECF No. 1.
 9 Defendant Old Republic removed the action based on diversity jurisdiction. *Id.* WFB filed a
 10 motion to remand this matter to the Eighth District Court (ECF No. 10) (“WFB’s Motion for
 11 Remand”). Defendants have each filed motions to dismiss (ECF Nos. 25-27).

12 On December 28, 2020, Magistrate Judge Koppe granted the Parties’ stipulation to limit
 13 discovery and stay discovery deadlines pending a decision on WFB’s Motion for Remand (ECF
 14 No. 40). However, the Parties now have agreed to stay all discovery in this case to preserve
 15 judicial resources and the Parties’ resources.

16 To the extent the Court exercises jurisdiction over this matter, this case, like the majority
 17 of HOA title insurance cases pending in this district, concerns the ALTA 1992 loan policy of title
 18 insurance with form 1 coverage, along with the CLTA 100/ALTA 9 Endorsement and the CLTA
 19 115.2/ALTA 5 Endorsement (while others concern the similar CLTA 115.1/ALTA 4
 20 Endorsement).

21 One such matter is on appeal in *Wells Fargo Bank, N.A. v. Fidelity National Title Ins. Co.*,
 22 Ninth Cir. Case No. 19-17332 (District Court Case No. 3:19-cv-00241-MMD-WGC) (the “*Wells*
 23 *Fargo II* Appeal”). The parties to that case—whose counsel are also counsel in this action—have
 24 been advised that the Ninth Circuit is considering the *Wells Fargo II* Appeal for oral argument.¹

25
 26
 27 ¹ The Court had indicated it would hear oral argument in Summer, 2021. The Ninth Circuit
 subsequently ordered the parties to participate in another pre-mediation conference, which took
 place earlier this week. A new date or time frame for oral argument has not been provided, but
 the parties anticipate that a new date will be provided soon.

1 The Parties anticipate that the Ninth Circuit Court of Appeals' decision in the *Wells Fargo*
 2 *II* Appeal will likely touch upon issues regarding the interpretation of the title insurance policy
 3 that could potentially affect the disposition of this action, particularly given some of the
 4 similarities between the policy at issue in *Wells Fargo II* Appeal and the policy here.

5 Because the *Wells Fargo II* Appeal has the potential to resolve certain matters at issue in
 6 this case, to the extent the Court finds it has jurisdiction to hear this dispute, the Parties stipulate
 7 and agree that a complete stay of discovery in this particular case pending the outcome of *Wells*
 8 *Fargo II* Appeal is appropriate.

9 **NOW THEREFORE**, the Parties, by and through their undersigned counsel, hereby
 10 stipulate and agree as follows:

- 11 1. Discovery between the Parties in the instant action shall immediately be **STAYED**
 12 pending the earlier of the disposition of either WFB's Motion for Remand or the *Wells*
 13 *Fargo II* Appeal. The Parties shall not file any motions to enforce party discovery
 14 while this stay is pending.
- 15 2. The Parties shall not file any additional dispositive motions while this stay is pending.
- 16 3. Each of the Parties shall be excused from responding to any now-outstanding
 17 discovery requests propounded by the other until after the stay is lifted.
- 18 4. The scheduling order previously entered in this action shall be hereby **VACATED**.
- 19 5. Each of the Parties may request a further Fed. R. Civ. P. 26(f) conference at any time
 20 180 days after the order granting this stipulation.
- 21 6. By entering into this stipulation, none of the Parties is waiving its right to subsequently
 22 move the Court for an order lifting the stay in this action.

7. Nothing contained in this stipulation will prevent the Parties from propounding and enforcing subpoenas to third parties.

Dated: June 9, 2021

WRIGHT, FINLAY & ZAK

By: /s/-Darren T. Brenner
DARREN T. BRENNER
Attorneys for Plaintiff WELLS FARGO
BANK, N.A., AS TRUSTEE, ON BEHALF
OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN
TRUST MORTGAGE LOAN PASS-
THROUGH CERTIFICATES, SERIES 2006-
12

Dated: June 9, 2021

EARLY SULLIVAN WRIGHT GIZER & McRAE
LLP

By: /s/-Sophia S. Lau
SCOTT E. GIZER
SOPHIA S. LAU
Attorneys for Specially-Appearing Defendant
OLD REPUBLIC TITLE INSURANCE
GROUP, INC. and Defendants
OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY and OLD
REPUBLIC TITLE COMPANY OF NEVADA

IT IS SO ORDERED.

Dated this 11 day of JUne, 2021.



RICHARD F. BOULWARE
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this Case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ D'Metria Bolden

D'METRIA BOLDEN

An Employee of EARLY SULLIVAN

WRIGHT GIZER & McRAE LLP

